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Third session

SUMMARY RECORD OF THE 71st MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 27 January 1993, at 3.45 p.m.

Chairman: Mr. KOLOSOV

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The meeting was called to order at 3.45 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 44 OF THE CONVENTION (agenda item 11)

Initial report of the Sudan (CRC/C/3/Add.3; CRC/C/3/WP.3) (continued)

1. At the invitation of the Chairman, Mr. Abdelhalim, Mr. Gubartalla and Mr. Elkarib (Sudan) resumed their seats at the Committee table.

2. The CHAIRMAN invited the representative of the Government of the Sudan to reply to some of the questions included in the list of issues to be taken up (CRC/C/3/WP.3) concerning sections E (Health and welfare) and F (Education, leisure and cultural activities) of the initial report of the Sudan (CRC/C/3/Add.3). The Committee had decided to set aside any other questions for the time being for the sake of efficiency. However, it wished to receive additional information in writing on the questions set aside and hoped that Mr. Abdelhalim would have no objection to the members of the Committee asking, if necessary, for further details regarding certain points. On that understanding, he began by referring specifically to question 35:

> "35. Please provide additional information on measures taken 'with a view to abolishing traditional practices prejudicial to the health of children' (art. 24, para. 3, of the Convention)."

3. Mr. ABDELHALIM (Sudan) said that the Sudanese Government was trying to combat traditional practices prejudicial to the health of children through legislation. Unfortunately, that was not enough. The Sudan was taking steps to put an end to those deeply-rooted traditions and to make families aware of the harmful effects of such practices on their children. For example, a department of the Ministry of Health was responsible for disseminating information on health problems, the environment and mother and child care, and for encouraging breast-feeding and good eating habits through dispensaries and social centres which taught the population the rudiments of primary health care. The National Mother and Child Care Department had been set up in an attempt to eradicate harmful practices, especially in the field of nutrition where there were still many taboos. Radio and television programmes and articles in the press were being instrumental in developing the population's awareness of such matters. Activities were also being carried out by voluntary organizations, particularly with the help of large numbers of social workers. The women's organization Babiker-Badri was trying to draw women's attention to the harmful effects of all those practices on children. Named after the founder of the first school for girls in the Sudan, established in 1907, that organization was endeavouring to put an end to such traditional practices as child marriage, heavy smoking, successive pregnancies, female circumcision, etc. Female circumcision had been prohibited by law in 1925 but continued to be practised outside the cities. One branch of the Babiker-Badri organization was specially concerned with combating that practice. Action by women themselves to stamp out such practices seemed more effective than legal prohibition.

4. The CHAIRMAN invited the representative of the Sudan to reply to questions 38 and 39:

"38. Please clarify whether the system of education is similar in the north and south of the country".

"39. Please provide information as to whether children may be taught in local languages in the schools".

5. In reply to question 38, Mr. ABDELHALIM (Sudan) said that the system of education was the same in the north and south of the country. A religious education was provided in Sudanese schools; State schools gave courses in both Islamic religion and catechism.

6. Question 39 was very complex. "Bush schools" run for a time by missionaries in the south of the country had taught children in the local languages in the first two years of school, in parallel with teaching in English. The writing of those local languages had gone first one way then another. In colonial times, six languages had been transcribed into the Arabic alphabet, thus enabling students to go on to other stages of education in Arabic. Unfortunately, the war had made it very difficult to continue. A linguistic institute had attempted to transcribe those local languages into Latin characters. Other efforts had been made to compile dictionaries and grammars. There were many languages spoken in the Sudan but Arabic was the main lingua franca. In the south of the Sudan, persons who had received an education spoke both Arabic and English. However, more than 120 languages were spoken by more than 500 tribes, mostly living in the south (Kordofan Province, Darfur Province, etc.) and the main languages of communication of those tribes were very limited (Dinka, Shiluk). Some languages were common to the Sudan, northern Kenya and northern Uganda. The National Conference on the Problems of Peace, which had been held in the Sudan, had decreed that lack of resources could not be used as an excuse for failing to provide education in local languages. The Sudanese authorities were convinced of how necessary that was, but many difficulties remained, due among other things to the war situation in the Sudan. Many children displaced to the north of the country came from different tribes; it was therefore impossible to provide teaching in all the local languages.

7. The CHAIRMAN asked the members of the Committee if they wished to have further information from Mr. Abdelhalim concerning the replies he had just given or earlier replies, before going on to the section on social welfare measures.

8. Mrs. SANTOS PAIS said that it would be useful to have some clarification in order to understand better the actual situation prevailing in the Sudan. Reverting to question 28, she said that she did not understand how the Sudanese authorities could reconcile article 47 of the Criminal Law Act of 1991, which provided for punishment by whipping, with paragraph (a) of article 37 of the Convention on the Rights of the Child. In her view, the two provisions were absolutely incompatible. She believed that the first step to be taken would consist in amending the legislation in force in the Sudan and hoped that the Sudanese authorities would consider taking such a step.

9. Mr. MOMBESHORA said that some health programmes were preventive, such as the campaign against leishmaniasis, whereas others were aimed at providing a solution to specific problems and required external cooperation. He understood that 9 out of 10 children were infected with tropical diseases; he asked whether specific programmes had been set up to combat those diseases and lower the infant mortality rate.

10. Mrs. MASON, referring to question 35, asked Mr. Abdelhalim what concrete, rather than legislative, measures had been taken by the Sudanese Government to abolish traditional practices prejudicial to the health of children, girls in particular. In addition, since there had long been a war situation in the Sudan, she wished to know what the incidence of mental disorders was among children and whether any measures were taken in that field.

11. Mgr. BAMBAREN GASTELUMENDI noted, as Mrs. Santos Pais had done, that whipping was a punishment provided for in Sudanese law; he would like to know, therefore, whether other types of corporal punishment for children (mutilation, forced labour, cutting off of the hand, public humiliation) were provided for or allowed by law or tradition.

12. The CHAIRMAN asked whether children were whipped naked.

13. Mrs. MASON, referring to question 39, asked how the Sudanese authorities reconciled observance of the Shariah (Islamic law), which implied a degree of discrimination, with authorized teaching in the local languages.

14. Mr. ABDELHALIM (Sudan), in response both to the Chairman and to Mrs. Santos Pais concerning whipping, said that it would be appropriate to abrogate the Criminal Law Act of 1991 or to reform it and that a proposal to that effect would be submitted to the National Council for the Protection of Children. He said that the law prohibited punishing children and recalled the disciplinary procedures under the two Acts of 1971 and 1981. There were very few cases of whipping and the judge had the option of disregarding that penalty. There were other disciplinary measures, such as committing the child to the care of his parents after obtaining a guarantee from them that they would take into account the acts committed by the child, or the child could be placed under the supervision of social workers. In cases where the penalty was applied, it never took place in public and the child was never naked. Moreover, the law provided that the trials of children always took place in private hearing. He was sorry to have to say that whipping was an official penalty in his country. He did not like having to talk about it, but was trying to explain what happened in his country since the Committee had asked him questions on that subject.

15. In response to the question about traditional practices prejudicial to the health of children, he said that the Sudan was combating those practices both through legislation prohibiting such acts and through information campaigns aimed at making parents aware of the harmfulness of such practices. If the members of the Committee thought there was a better means of combating them, the Sudanese delegation would be very happy to hear about it.

16. The war that was raging in the south of the Sudan was producing casualties and also causing serious health problems and mental, social and economic difficulties. It had for instance led to the displacement of many persons, most of them children and old people, who were living in camps lying for the most part near the big cities. Displaced persons who so desired could receive psychological or psychotherapeutic treatment at medical centres in those cities.

17. On the other hand, people living in camps far removed from the big urban centres did not have that possibility. Some voluntary bodies were trying to remedy the situation but he did not know exactly what success they were having. In any event, it was very difficult to satisfy all the needs arising in that connection owing to lack of resources.

18. With reference to the relationship between religion and the State, it should be made clear at the outset that the law guaranteed all Sudanese citizens freedom of religion. Accordingly, provinces where there was not a Muslim majority were not required to apply those provisions of federal legislation that were religious in character. Similarly, non-Muslims living in provinces where there was a Muslim majority were not required to observe Islamic law. The emphasis was not on religion but on citizenship. There was no law stipulating that, to occupy a particular post, a Sudanese citizen must follow a particular religion.

19. In conclusion, replying to the question put by Mgr. Bambaren Gastelumendi, he said that the law made provision for no corporal punishment other than whipping to be applied to children.

20. Mr. HAMMARBERG was glad to hear Mr. Abdelhalim say that he was ready to communicate to the National Council the Committee's wish that the law authorizing the use of whipping as a means of punishing children should be abrogated. Article 19 of the Convention urged the States parties to take all appropriate measures to protect the child from all forms of violence. Even if such a punishment was not applied in practice, it would be good if it was not authorized by law.

21. The Committee also welcomed the efforts made by the Sudan to eliminate traditional practices prejudicial to the health of children, in particular by involving women themselves in those efforts and by cooperating with such organizations as Al-Badri, which was doing excellent work in the Sudan.

22. Nevertheless, the Sudanese authorities should make it clearly understood to the population that practices such as female circumcision were prohibited. A very positive step would be to inform young women who had just given birth to their first child in a mother and child welfare centre that female circumcision was both extremely painful for the child and prohibited by the authorities. That would be the best way of preventing that practice from being passed down from generation to generation. The Committee would be grateful if Mr. Abdelhalim would inform the National Council of its concerns in that connection.

23. Mrs. BADRAN said that whipping a child was not only contrary to the provisions of the Convention but was also likely to propel the child along the path to delinquency. She also wondered whether the fact of not applying the Shariah in provinces where Muslims were in a minority did not constitute discrimination against those minorities.

24. Mrs. SANTOS PAIS said that, in order to combat traditional practices inflicted on girls, the Sudanese authorities could translate the Convention into the various languages spoken in the country, organize information seminars, for health personnel in particular, and associate non-governmental organizations more closely with such activities. Endorsing the views expressed by Mrs. Badran, she wondered whether the Sudanese authorities ought not to harmonize the laws so that they would apply in the same way to all citizens.

25. Mr. GOMES DA COSTA said that one of the most important aspects of the Convention on the Rights of the Child was the delicate balance that might exist between its provisions and the traditions of States parties. On ratifying the Convention, States sometimes had to strive to amend practices, customs, attitudes or values that were contrary to the rights of the child, without at the same time undermining the foundations of the national culture. Respect for human rights in general, and the rights of the child in particular, was currently regarded as a universal principle that took precedence over tradition and custom, and indeed over national sovereignty. In that connection, he thought that certain customs and certain aspects of Sudanese legislation, in particular female circumcision and the sentencing of children to whipping, were contrary to the provisions of the Convention. He believed that Sudan should try to alter certain traditional attitudes and values that were contrary to the rights of the child and should make radical changes in the legislation relating to minors. He reminded the Sudanese delegation that the provisions of articles 37 and 40 of the Convention were enlarged upon in other international instruments, namely, the United Nations Standard Minimum Rules for the Administration of Juvenile Justice, the United Nations Guidelines for the Prevention of Juvenile Delinquency and the United Nations Rules for the Protection of Juveniles Deprived of Their Liberty. He noted with satisfaction that the head of the Sudanese delegation himself recognized that some aspects of Sudanese tradition and legislation were contrary to the letter and the spirit of the Convention and that certain modifications must be made in the legislation in the interest of children. The Sudan might benefit from the assistance of the international community to that end.

26. Lastly, he believed that the situation of children in conflict with the law could, and should, be improved, regardless of the country's economic situation. He pointed out that the measures that needed to be taken to ensure better treatment for children suspected, accused or convicted of offences under the Criminal Law Act and provide them with safeguards did not require immense resources or radical structural changes but only a political will to protect the rights of children.

27. Mr. ABDELHALIM (Sudan) thanked the members of the Committee for their comments and their advice on the steps that could be taken to combat practices

prejudicial to children. He assured them that the comments and advice would be brought to the attention of the National Council and that, as a member of the Council, he would see that they were followed up.

28. Although he recognized that the remarks on the need to amend certain attitudes and legal provisions were well-founded, he did not think that the Sudan needed assistance from the international community in order to make those changes. What was necessary above all was that the people should be made aware of the problems and convinced of the need to alter certain traditions and amend certain laws. The Sudan possessed a number of eminent jurists who would see to it that the necessary changes were made.

29. The CHAIRMAN said that, before giving the floor to the members of the Committee for their general comments on the report and its presentation, he wished to thank the Sudanese delegation for having engaged in a constructive dialogue with the Committee, while at the same time he regretted that it had not had time to reply to certain questions in the list of issues (CRC/C/3/WP.3, questions 18, 20, 21, 22, 23, 24, 27, 29, 30, 33, 34, 36, 37 and 40 to 48). The delegation had submitted the draft of a written reply, based on informal notes, but the text needed to be filled out and tidied up.

30. Mrs. BADRAN noted with satisfaction that the Sudan had been one of the first countries to ratify the Convention, had submitted a report, and had engaged in a constructive dialogue with the Committee. That being said, it must be pointed out that some of the provisions of the Sudanese legislation were contrary to the provisions of the Convention and should be amended. She was pleased that the representative of the Sudan had acknowledged that fact and had said that the people and the Sudanese State must be persuaded of the need to make changes. There were other legislative provisions that prevented the basic needs of children from being met. For example, the law prescribed that refugee children must submit a birth certificate in order to enrol in a school. However, some of them possessed no such document, which perhaps explained the low percentage of refugee children enrolled in primary schools (20 per cent in the case of boys and 10 per cent in that of girls). Lastly, some laws were difficult to apply, such as that authorizing nursing mothers to leave their work in order to breast-feed their children. She also noted that the report referred to a number of objectives without explaining how they were to be achieved. It also gave very little information on the policy adopted in regard to certain groups of children, such as the disabled.

31. Mgr. BAMBAREN GASTELUMENDI said that although he recognized the difficulties that faced the Sudan, he must emphasize that the Committee's duty was to concern itself above all with the rights of the child. By ratifying the Convention, Sudan had undertaken to take all legislative, administrative, social and educational measures to protect children from all forms of ill-treatment. No doubt, as the representative of Sudan had acknowledged, many measures could be taken at the legislative level, but that was not enough. Steps must also be taken in the social field and in the field of education. He also pointed out that a number of serious problems had not been addressed. With regard to the administration of justice, for example, the Committee had not been informed what penalties were incurred by young people who infringed the law, or from what age the death penalty could be applied. Similarly, the question of forced labour and the situation of the disabled had

not been considered. He believed that social services in the Sudan needed to be further developed and that machinery should be set up, at both local and national level, to enable children to claim and defend their rights.

32. Mr. HAMMARBERG said that, like Mrs. Badran, he welcomed the Sudan's accession to the Convention and the efforts it had made to submit a report to the Committee. He also noted with satisfaction that studies were in progress or planned on the situation of children in the Sudan. They would make it possible to frame a policy aimed at protecting children in difficulty and improving their lives and to earmark the necessary resources. Lastly, he noted with approval that the National Council might reconsider some criminal penalties. He regretted, however, that some questions had not been able to be addressed by the Committee. It was true that debate between people from very different cultures was not easy; time was needed to understand the cultural factors underlying certain practices and at the origin of certain laws. The dialogue with the Sudan must therefore be continued. It would be interesting, for example, to look into the situation of disabled children and see what steps could be taken to enable them to attend school. It would also be interesting to take up the question of child labour and the protection of children against all forms of exploitation in that regard. Again, it would be useful to take a look at curricula and see what could be done to raise the standard of education. In that connection, he emphasized that education was not simply a duty for children but also a means of helping them to blossom and giving them the possibility of contributing at a later stage to their country's development. For all those reasons, it was very important for the Committee to continue its dialogue with the Sudan. The concern was not to seek confrontation in order to find out who was right and who was wrong, but rather to work together to ensure that there was no obstacle in the way of helping children in need and protecting their rights.

33. Mrs. SANTOS PAIS said that she shared the views expressed by the other members of the Committee. She hoped, like the Sudanese delegation, that the dialogue would serve as a solid foundation for the implementation of the Convention. It was her impression, however, that all the members of the Committee were of the view that, as had been recognized by the Sudanese delegation itself, much remained to be done before the Convention could be fully implemented in the Sudan, particularly at the legislative level. The Convention had become part of the national legislation, and it was extremely encouraging to note that the Sudanese delegation considered for example that the question of whipping inflicted as a punishment should be re-examined by the National Council. If the Committee had been able to convince the delegation of the need to take steps in that connection, the delegation in its turn could certainly convince the Sudanese Government.

34. As far as aid and humanitarian assistance was concerned, the Sudanese Government approved surely of the recommendation by the recent meeting on the rights of the child at Dakar that aid and humanitarian assistance should be directed primarily towards children. It would be good if the Sudan would provide additional information in that connection at the next session of the Committee.

35. The Committee would also like additional information on the situation of the children included among the persons displaced within the country because

of the armed conflict. In particular, it would like to know to what extent children far from their homes, who should normally be able to live with their families, enjoyed the rights set forth in the Convention and benefited from the protection that it was designed to ensure.

36. On the matter of children in conflict with the law, the question was how the child and criminal responsibility were defined. According to the Convention (art. 40, para. 3 (a)), national legislation should establish a minimum age below which children should be presumed not to have the capacity to infringe the penal law. She hoped very much that the Sudanese delegation would provide clarification regarding that particular matter at the next session.

37. In view of the constructive attitude of the Sudanese delegation, she was convinced that, at its next session, the Committee would be able to draw conclusions regarding the way in which the Convention was implemented in the Sudan. She hoped that the Committee's preliminary consideration of the report would be taken duly into account by the Sudanese Government.

38. Mr. GOMES DA COSTA said that he was concerned about paragraph 150 of the report, which said that it was difficult to define precisely the term "difficult conditions to which the child is subjected". The report referred in that connection to displaced persons, migrants, refugees and the disabled only. The concept was, in fact, much wider. It covered a whole range of situations in which children could find themselves: they could be children who were abandoned, sold, victims of abuse, negligence or ill-treatment, children who worked at home to ensure their family's survival, children exploited by their employers, children selling or using drugs, involved in prostitution or pornography, children living in zones of conflict, children who were the victims of natural disasters, or children in conflict with the law. All children in those categories needed special measures of protection. The matter was taken up only briefly and superficially in the Sudanese report. He hoped that it would be dealt with more fully next time.

39. He noted that paragraph 59 of the report talked about placing children in establishments. There was a reference to the Home of the Future (Dar Bacha'er) which housed 300 girls. Could the standards of the Convention be applied when such large numbers were involved?

40. Traditionally, the law developed in the wake of social changes and changes in ways of thinking. In the case of the Convention, however, the contrary would appear to be the case in the Sudan, where changes in attitudes and in the organization of institutions were apparently supposed to follow in the wake of the law. He wished, therefore, to stress three aspects. First, it was always possible to make radical changes to legislation and not make do with amending any given article of a particular law. Secondly, the establishments that looked after children needed to be reorganized - it was difficult to look after 300 children properly in one place. Thirdly, major efforts had to be made to train the personnel of such establishments. Training for the personnel responsible for the administration of justice and the members of the police force was also very important.

41. Mrs. MASON said that she shared the hope of the other members of the Committee that the Sudanese delegation would return at the next session to continue its dialogue with the Committee.

42. In regard to disabled children, she noted that the tendency was almost always to speak mainly of the physically handicapped. She would like the Sudanese delegation to provide a little more information at the next session on mentally handicapped children in the Sudan. What measures were taken in their regard, what facilities were provided for them and what kind of care did they receive?

43. She agreed with the Sudanese delegation that it was not necessary for the Sudan to reform its legislation - which it could do with the help of the eminent jurists at its disposal - in order to make it conform to the Convention, because the Convention had, it seemed, by virtue of being ratified, acquired the force of law in the Sudan. The chief concern was then to seek to apply the principles of the Convention, which the Sudan had ratified without reservation, thus demonstrating its determination to comply with international standards relating to the rights of the child. She therefore urged the Sudanese delegation to press the Sudanese Government to put the Convention actively into effect, either by making those responsible for applying the law understand that the Convention had the force of law in the Sudan, or by launching more targeted campaigns, in the media for example, to reduce the scale of certain practices in communities and ensure compliance with international standards relating to children.

44. The CHAIRMAN emphasized that the future of the Sudan, like that of any other country, lay with its children. The Sudan was going through difficult times. The situation could not be changed from one day to the next, but difficult times demanded a redoubling of effort. The Sudanese Government had shown the importance it attached to the Convention by ratifying it. The Committee, for its part, was ready to resume the dialogue with the Sudanese delegation at an early date. At present, the human rights instruments were no longer used as a weapon in the cold war between nations; the debate on human rights was less and less politicized. It should be remembered that the members of the Committee on the Rights of the Child served in their personal capacity and represented no movement or country. They believed that it was in the interest both of the Committee and of Sudanese children to continue the useful and encouraging dialogue with the Sudanese delegation and hoped that the delegation would be able to come back for the Committee's next session.

45. Mr. ABDELHALIM (Sudan) welcomed the seriousness and objectivity shown by the members of the Committee. He assured them of the interest he had taken in the dialogue with them. All those who had helped to prepare the report and the replies to the written questions had taken their work very seriously and spent a great deal of time on it. Had there been time, the Sudanese delegation could have replied at least in part to a number of the questions raised by the members of the Committee in their concluding observations.

46. He shared the concern that had been expressed about disabled children and the institutions that looked after them. It should be explained in that connection that the 300 girls in the House of tne Future did not live in a

single building but were housed in several smaller units. The Sudan gave precedence to reintegration, rehabilitation, family reunification and placement in foster families. Placement in institutions was used only as a last resort.

47. His delegation looked forward with interest to the resumption of its dialogue with the Committee. It hoped that the secretariat would prepare in advance a brief list of the points on which the Committee wished to have clarification and additional information.

48. The Sudanese delegation withdrew.

The meeting rose at 6 p.m.